

REMARKS

Responsive to the aforementioned Office Letter, applicant notes that the application only includes Claims 31, 33 and 40 and 41. Applicant again wishes to emphasize that had the original restriction been made clear, applicant never would have elected
5 these claims, but instead, would have elected one or more other groups. The incredibly vague description of species only by reference to Figure numbers made it virtually impossible to determine what was in the Examiner's mind. Applicant had actually assumed these various Figures represented features different than
10 those assumed by the Examiner and which were never identified, except after the election. Applicant expresses this frustration and its anger over the fact that it had expended a substantial amount of money to prosecute an invention which was probably the least important of all of the alleged different inventions in the
15 application.

However, now that this most unfortunate and unfair restriction issue has been made final, and the applicant was unknowingly electing to prosecute the subject matter drawn to ribs, and in an attempt to make the best of an already unfair situation, the
20 applicant will attempt to show how the claims in the instant application distinguish over the prior art comprised of the Trueb et al. patent No. 5,303,730, and the Helmsderfer patent No. 5,564,463.

The Examiner took the position that the Helmsderfer patent disclosed the jacket with fins or ribs on the inner surface to project inwardly and engage a pipe. The Examiner relies upon that portion of the Helmsderfer patent which recites that the longitudinal ribs extend from end 34 to transition region 42 thereby teaching the interruption with a gap. The Helmsderfer patent, in fact, teaches of a ribs which do not extend from end to end. Attention is invited, for example, to Figures 2 and 4. It can be observed that the ribs 41 extend inwardly from the upper end, but there are a complete absence of ribs at the end 39. It is true that the ribs may extend to the transition region, such as that region 42. However, that does not meet the limitation of ribs extending from end to end and only with a gap in a transition region. There is no transition in the Helmsderfer patent. Rather, there is a length of ribs extending from the upper end of the jacket to a point intermediate the opposite end of the jacket. Consequently, Helmsderfer is directed to a totally different structure.

It would be all too easy and convenient for the Examiner to contend that extension of the ribs for the full length would have been obvious. However, it is to be noted that there is not one reference of record which shows ribs extending from one end of the cover to the other end. Moreover, this is particularly true for an undersink protective cover. In this respect, it is to be noted that

the applicant has limited all of the claims to pipes used in a P-trap configuration.

It is interesting that if it were obvious to extend ribs from one end to the other of the jacket, with all of the prior art relating to undersink protective devices, that such would have already been made available. However, there is no one reference which shows this construction.

The applicant has found that by extending the ribs to the full length of the pipe, that stability of the jacket around the pipe is achieved. This is particularly true inasmuch as there is a longitudinal slit from one end to the other in the pipe cover. Thus, the ribs act to stabilize the jacket for the full length of the jacket on the pipe. It is respectfully urged that contrary to the allegations of the Examiner, such construction does not exist, and therefore, favorable reconsideration and allowance is respectfully solicited.

The applicant wishes to emphasize that it has examined and is aware of each and every Helmsderfer patent and each and every Trueb et al. patent which had issued at least up until about 2003. Moreover, the applicant is familiar with those jackets which are presently made under the teachings of the Helmsderfer patents. In fact, the Helmsderfer patents were acquired by Truebro, Inc., of Ellington, Connecticut formerly owned at least by Steven Trueb and Thomas Trueb. Moreover, the applicant has been involved in a litigation with Truebro, Inc. To the best of the knowledge of the

applicant, who is quite familiar with the products made by Truebro, Inc., its major competitor, the ribs in the structure made in accordance with the Helmsderfer patent did not have ribs extending from end to end. Moreover, until recently, Truebro did not use longitudinally extending ribs. Consequently, it is respectfully urged that there is no prior art which reads upon the claims as now amended; and therefore, favorable reconsideration and allowance is respectfully solicited. It is therefore believed that at very least, Claims 31-33 and 40 and 41 are patentably distinguished over Trueb et al., or over Helmsderfer taken alone or in combination.

Even though the Trueb et al. patent may define fins which can be extended longitudinally, there is nothing which suggests that the fins or ribs extend from end to end.

Contrary to the allegations of the Examiner that Trueb teaches corrugations 46, the corrugations are actually the threaded sections which are provided for physical engagement between the two jackets. They are not designed to engage the pipe. They do not extend inwardly and moreover, the corrugations exist only at this one end. In short, it is impossible to equate the corrugations with the ribs 34 in Trueb et al.

The applicant has amended each of the claims in the application to include these limitations presently included in the elected claims. As a result, if the elected claims are allowed, then each of the other claims not drawn to the fasteners, per se, should also be allowable. With respect to the restriction requirement, it is

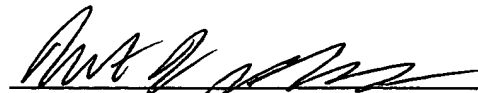
noteworthy and paramount that the applicant can include any limitations necessary to distinguish over the prior art so long as the applicant has limitations directed to the claimed invention. Thus, even though other claims may have been initially directed to other features of the invention, they also now contain the features of the claim directed to the ribs. It is therefore believed that these claims are also allowable and allowance therefor is respectfully solicited. In view of the foregoing, favorable reconsideration and allowance is requested.

With respect to the rejection on the grounds of double patenting, the Examiner took the position that Claim 31 was rejected under the judicially created doctrine of obviousness type with respect to Claim 19 of U.S. patent No. 6,739,353. Reconsideration of this position is respectfully urged. The best that can be said of Claim 19 of the '353 patent is that there are a plurality of small discrete projections integral with the interior surface of the jacket. These are equivalent to those for example, in Figure 36-45 of the '353 patent. They are not ribs in even the remotest sense. Moreover, there is nothing which suggests that they extend from end to end of the jacket. This is a fairly unique feature and clearly not taught in the prior art. It is therefore difficult to see how there could be a double patenting rejection on the basis of this Lechuga '353 patent. Reconsideration is therefore respectfully solicited.

In further response to the double patenting rejection, it is noted that the Examiner contended Claim 31 of the present application was unpatentable over Claim 19 of U.S. patent No. 6,739,353. It is to be noted that Claim 19 of the '353 patent covers a plurality of small discrete projections which extend along the length of the jacket and the pipe. Claim 19 calls for these projections to be closely spaced apart from one another so that there is a high density of these projections. Obviously, when small discrete projections of the type being shown in Figures 34-45 of that patent are employed, they must be densely packed in order to provide the proper spacing of the jacket from the wall of the pipes. However, with longitudinal ribs, such is clearly not the case. There is no requirement for a high density packing of the ribs, and indeed, that would actually be undesirable. The air space provides an excellent insulation medium. Thus, it is urged that the two constructions are not only different, but they provide different results and operate in a different manner. Consequently, reconsideration of this rejection is further respectfully urged.

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Respectfully submitted,



ROBERT J. SCHAAP
Registration No. 20,577
Attorney for Applicant
Phone: (818) 346-6555
Fax (818) 346-2041



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